

LA MESA POLICE DEPARTMENT INSTRUCTION

PATROL: BODY WORN CAMERAS

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Walt Vasquez, Chief of Police

I. PURPOSE

This Department Instruction establishes guidelines for Department members using body worn cameras while in performance of their duties and procedures for preserving digital evidence. This policy is not intended to replace sound officer safety practices in an emergency situation, such as self-defense, etc.

II. SCOPE

This Department Instruction applies to all members using issued body worn cameras.

III. BACKGROUND

The use of body worn cameras by law enforcement officers has proven to be effective in gathering additional evidence at the scene of police/public encounters and in maintaining public trust. The use of body worn cameras also has been shown to reduce both violent encounters and citizen complaints against officers. The video and audio captured on a particular device may not show all details of a particular incident and may not capture an entire scene. Body worn cameras may provide additional documentation for officers, but do not replace thorough written reports. Therefore, anyone reviewing a recording must be cautious and consider all pertinent information about a particular event before conclusions are drawn about what an associated video depicts.

IV. DEFINITIONS

Body Worn Camera (BWC) – A device worn on an officer's person that records and stores video and audio.

BWC Program Administrator – A Police Sergeant identified by the Chief of Police or their designee, who has administrator or full access to user rights in Evidence.com; who establishes BWC user permissions, BWC user access, and other BWC user parameters.

Evidence.com – An online, web-based digital evidence management system provided by Axon Enterprises, Inc., that supports the body worn camera system in a highly secure environment. This system is used to establish user profiles and permissions, and assigns devices to individual officers. This system, via a

docking station or other supporting device, imports video and audio recordings made by a body worn camera. Evidence.com also stores, and maintains a chain of custody on all recordings made by a body worn camera.

Metadata – Data that is descriptive in nature about a digital recording. This data may include such information as agency, date, time, officer, officer ID number, incident number, case number and event category.

Uniformed Assignment – For purposes of this policy, a uniformed assignment is any time a sworn officer is performing field duties, regardless of their primary assignment (Division / Specialized Unit), and is wearing a police uniform (to include the wearing of a tactical vest) as defined in the Department Rules and Regulations.

V. PROCEDURE

A. Public and officer safety is paramount in any law enforcement task.

Public and officer safety takes precedence over the initiation of any event recording with a BWC. Officers shall follow existing officer safety policies when conducting enforcement activities as outlined in Department Instructions. Public and officer safety shall be the primary consideration when contacting citizens or conducting enforcement activities, not the recording of an event.

B. General

1. Only authorized personnel that have been fully trained shall use or be in possession of a BWC device.
2. BWC equipment is for official use only and shall not be used for personal use.
3. Officers shall operate the BWC in accordance with the manufacturer's guidelines and Department training, policies and procedures. Officers shall not tamper with or dismantle any hardware or software component of any BWC device.
4. Many electronic devices, which include BWCs and any device synched to the BWC in support of its operation, emit radio waves that could trigger an explosive device. Therefore, BWCs and supporting cellular devices should be powered off completely when an explosive device is suspected to be present.
5. The use of any other personal video recording device for the same purpose as a BWC is not authorized without permission from the Chief

of Police or designee.

6. All digital evidence collected using a BWC is considered a record of the Department and is for official use only.
7. Accessing, copying, forwarding or releasing any digital evidence for other than official law enforcement use and contrary to this procedure is strictly prohibited. Public release of digital evidence is prohibited unless approved by the Chief of Police or their designee.
8. Recordings shall not be used by any member of the Department for the purposes of embarrassment, intimidation or ridicule.
9. Personal computer equipment and software programs shall not be utilized when making copies of digital evidence. Officers are prohibited from pairing or otherwise using their personal phone, smart device, or other personal recording device for BWC applications. Using a secondary recording device such as a video camera, cellphone or other device to record or capture digital evidence from Evidence.com or any BWC supporting device is strictly prohibited.

C. Modes of Operation for the Axon Body Worn Camera

1. The BWC operates on rechargeable battery power. The unit is capable of 12+ hours of video and audio recording. The BWC unit is capable of charging any time it is docked. A fully discharged battery will require about 6 hours to fully recharge.
2. The BWC is equipped with pre-event capture technology. This technology allows buffered video (not audio), which is captured 30 seconds directly before the initiation of a recording by the wearer, to be attached to the resulting tagged or categorized video and audio recording.
3. Recording is accomplished by pressing the Event Button twice on the face of the BWC. Pressing and holding the Event Button for a period of at least 3 seconds stops the recording of video and audio. Separate activations of the Event Button, as described above, creates separate video and audio recordings.

D. Storage

1. When not in use, the BWC shall be stored in a designated docking station.

E. Pre-Shift Inspection

1. Officers shall inspect and test their assigned BWC device daily to ensure there is no visual damage and the device appears to be in working order.
2. Any BWC that has visual damage shall be immediately reported to the Field Supervisor or the Program Administrator.
3. BWCs that are found to be inoperable shall be tagged and turned into the Field Supervisor or the Program Administrator as soon as practical. In any case of BWC failure or malfunction, the device shall be reported to the Program Administrator for repair or replacement.

F. Camera Position

1. Officers shall wear the BWC in a forward facing position that provides for the most effective recording angle for the model provided to the wearer. The BWC shall be positioned so that the wearer may safely activate the camera prior to or during an incident. Officers may remove or adjust the BWC from their normal wearing position if the BWC would better be positioned differently for a specific purpose (i.e. a better camera angle is required to capture a specific incident). Officers shall not intentionally obstruct or obscure the view of their camera while recording.

G. Advisements about Recordings

1. Private citizens do not have a reasonable expectation of privacy when talking with police officers during the scope of an officer's official duties, even when the contact is in a private residence. Therefore, officers are not required to give notice they are recording. However, if asked, officers shall advise citizens they are being recorded.
2. Officers are not required to initiate or cease recording an event, situation, or circumstance solely at the demand of a citizen.
3. Officers and supervisors involved in the investigation of a complaint against a member of the Department must inform complainants and witnesses they are being recorded.

H. When and Where to Record

It is the intent of the La Mesa Police Department to record all law enforcement related contacts and other contacts that are deemed appropriate.

All officers issued a BWC are required to wear and use their BWC while working any uniformed assignment and performing field duties. Officers working a plain clothed assignment/detail are exempt from this policy, unless otherwise directed by their immediate supervisor or their designee.

While inside the Department facility (Station), officers should power off their BWC to conserve battery power and to avoid unnecessary or unauthorized recordings. When leaving the Department facility, officers shall keep their BWC powered on to facilitate immediate event recording. Unless it is unsafe, or impractical to do so, or mechanical issues impeding the use of the device are present, officers shall activate their BWCs to record all law enforcement related contacts.

The recording should be started prior to the actual contact with the citizen, or as soon as safely possible thereafter, and continue recording until the contact has concluded. Officers should begin recording prior to arrival on any incident if the call has the potential to involve immediate enforcement action upon their arrival.

1. Law Enforcement Related Contacts

- a. Law enforcement related contacts are any investigative or enforcement activities which include, but are not limited to, the following: radio calls, consensual encounters in which an officer is attempting to develop reasonable suspicion on the subject of the encounter, detentions, field interviews, traffic stops, pedestrian stops, arrests, prisoner transports, or Code 3 emergency vehicle responses including vehicle pursuits.

Officers shall record any other contact that becomes confrontational or adversarial after initial contact in a situation that would not otherwise require recording. Officers should record any event he or she believes the recording would protect the interests of the officer or the Department.

- b. Covering another law enforcement officer or City employee during an enforcement contact including, but not limited to; Community Service Officers (CSO), Parking Control, Animal Control, etc.
- c. The use of BWCs on SRT missions will be at the discretion of the Team Commander or their designee.
- d. The use of BWCs by officers assigned to Specialized Units will be at the discretion of the Unit's Supervisor or their designee.

2. Victim and Witness Interviews

- a. With the exception of sex crimes and child abuse cases, officers should record all other victim and witness interviews. However, if a particular victim or witness objects to being recorded by the BWC while giving a statement, the officer may shut off the recording for that statement. In this instance, the officer should annotate on the recording the date, time, and reason for stopping the recording prior to actually shutting off the recording. The officer should also document in their written report that the BWC was not recording during that particular interview and the reason(s) why.

3. Suspect Interviews

- a. Officers are encouraged to fully record suspect interviews. Officers should not stop and start recording during a suspect interview.
- b. When recording interviews, officers shall ensure they record any admonishments prior to the start of an interview.

4. Searches

Uniformed officers shall record during the execution of a search warrant, an arrest warrant, a Fourth Amendment waiver search, or a consent search in which the officer is looking for any person, evidence, or contraband.

5. Special Events

Use of a BWC at a special event is at the discretion of the event supervisor. When there is reason to believe that a planned event has the potential for unlawful activity, the Incident Commander should make the determination whether recording is appropriate.

6. Muting of BWC Audio

It is recognized that officers will need to engage fellow officers and/or supervisors in occasional, confidential conversations while handling law enforcement related contacts. These conversations may involve the discussing of case details, tactical considerations, deployment of personnel or equipment, etc.

In such instances, officers have the discretion of either muting their BWC audio or they may power off their BWC. The officer shall annotate on the recording the date, time, and reason for muting the BWC audio or stopping the recording prior to actually doing so. Upon the

conclusion of such confidential conversations, the officer should annotate the video as described above when the audio is either unmuted or the BWC is powered back on and in Event Mode. The officer should also document in their written report that the BWC was not recording during that particular interview and the reason(s) why.

I. When and Where Not to Record

1. BWCs shall not be used to record non-work related activities.
2. BWCs shall not be used to record activities such as pre-shift line-ups or other activities not related to a criminal investigation.
3. BWCs will not be activated in places where persons have a reasonable expectation of privacy, such as locker rooms, dressing rooms, or restrooms. Enforcement contacts that occur in these locations are the exception.
4. BWCs shall not be used to record Department administrative investigations.
5. When possible, officers should avoid recording exposed areas of the body that could cause embarrassment or humiliation, such as exposed breasts, groin, etc.
6. Officers shall not use BWCs to make surreptitious recordings of other department members.
7. Patient Privacy
 - a. As a general policy, officers should not record patients during medical or psychological evaluations by a clinician or similar professional, or during treatment. This includes during PERT interviews. Officers shall be aware of patient rights in hospital settings. Officers may record a suspect if the suspect's conduct is violent or threatening to hospital staff, to PERT clinicians or to law enforcement members. When recording in a hospital setting or other medical facility, officers shall be careful to avoid recording persons other than the suspect.
 - b. As a general policy, officers should not record while in a facility whose primary purpose is to provide psychiatric services unless responding to a radio call involving a suspect who is still present. Officers may record a suspect if the suspect's conduct is violent or threatening to hospital staff, to PERT clinicians or to law enforcement members.
8. Officers should continue recording during the booking process at the La

Mesa Police Department or other similar facility. While at County Jail Facilities, the officer may continue recording up until the prisoner's custody has been transferred to the custodial agency.

9. BWCs shall not be used during sex crimes or child abuse investigations, including the statements of victims, witnesses, and interactions with the parents of victims. Enforcement contacts with the suspect(s) during these investigations are the exception.

10. BWCs shall not be used during major crime briefings, tactical briefings, homicide briefings, and officer involved shooting scene walk-throughs or during a homicide scene walk-through.

11. Public Encounters

Generally, officers should not record informal or casual encounters with members of the public. Officers should consider that recording people in some circumstances may inhibit sharing neighborhood information or developing strong ties between members of the community and officers.

J. Documentation of Recorded Events

All recordings shall be documented in the appropriate report format, such as Crime Reports, Arrest Reports, Traffic Citations, Field Interviews, and when appropriate in Computer Aided Dispatch (CAD) incident history. All recordings shall be tagged with the appropriate incident number received from CAD.

K. Entering Metadata and Impounding Procedures

After stopping a recording, and as soon as practical, the officer should enter the proper metadata for the recording via the BWC supporting device. The importation of recorded events from the BWC into Evidence.com is accomplished when the officer docks the BWC at a designated docking station.

L. Accessing and Reviewing Impounded Digital Evidence

1. Officers with user permissions to Evidence.com may have unrestricted access to review their own recordings. Officers may review their BWC recordings as a resource in preparing written reports. With the exception of a timely public safety statement, members who are involved in a critical incident shall be allowed to review their own recording of the incident prior to giving a voluntary or compelled statement.

In the event that the recording of an officer involved in a critical incident is damaged, destroyed, or of poor quality; or in the event that other

officer's recordings offer a better perspective of the critical incident than that of the subject officer(s), all parties involved may individually be allowed to review all of the recordings associated with that incident prior to giving a voluntary or compelled statement.

2. Digital evidence captured by a BWC is not all inclusive. The systems capture a less broad and less detailed image than the totality of the human senses. An officer's recollection of specific details may be different than what is captured in digital evidence. Officers should review digital evidence prior to completing reports when necessary to ensure accuracy.

Officers shall review digital evidence prior to providing testimony at hearings or depositions.

3. Detectives are responsible for reviewing, updating, and tracking digital evidence associated with their assigned cases.
4. It is not the intent or practice of the Department to review digital evidence for the sole purpose of general performance review, for normal preparation of performance evaluations, or to discover policy violations. Digital evidence may be viewed by supervisors, or any member of the Department, who is participating in an official investigation or for administrative purposes that are limited to the following:

- a. Any incident in which a member of the Department is seriously injured or killed during the performance of their duties.

In situations where an officer is unable to provide information in the field due to any incapacitating injury, their camera system may be viewed by any on-scene officer for the purposes of gaining critical investigative information. Any officer who accesses BWC video in such a circumstance shall advise the appropriate supervisor of that access as soon as practical.

- b. Any incident involving the use of force other than verbal commands by a member of the Department which results in injury or death.
- c. Any in-custody death.
- d. Any police pursuit.
- e. When any member of the Department intentionally or unintentionally discharges a firearm at a person regardless of whether an individual is struck.
- f. When any member of the Department not involved in training

intentionally or unintentionally discharges any Less-Lethal weapon system(s) at a person regardless of whether an individual is struck.

- g. Officer involved traffic collisions.
- h. Prior to the release of recordings in response to a proper legal request (Subpoena or other court order).
- i. In preparation for a civil deposition where the incident arises from the employee's official duties.
- j. When preparing to testify in a criminal, civil or administrative proceeding arising from the employee's official duties.
- k. For investigations undertaken by the Department, for the purpose of proving or disproving specific allegations of misconduct.

Note: For administrative proceedings, when digital evidence is used by the Department for the purpose of proving or disproving allegations of misconduct, only digital evidence relevant to the investigative scope shall be viewed and retained by investigators. Information relevant to the recordings viewed and seized as evidence by Investigators shall be documented as part of the chronological summary of any investigation undertaken by the Department.

- l. In situations where there is a need to review digital evidence not covered by this procedure, the Chief or Police or their designee must approve the request. Each situation will be evaluated on a case by case basis. If approved, recordings shall not be shared with others without a legitimate professional interest in the case, and should be considered "need to know" content. Members without the "need to know" about the investigation, shall be prohibited from viewing the video without the express permission of the Chief of Police or their designee.

M. Retention of Digital Evidence

It is the responsibility of the officer making the recording to affirmatively categorize recordings either on the BWC supporting device or in Evidence.com, based on the circumstances of the incident.

All recordings shall be retained for a period pursuant to Penal Code section 832.18(b)(5)(ii), and consistent with the requirements of the Department's retention schedule.

All recordings related to any criminal proceeding, claim filed, pending litigation, or personnel complaint, shall be preserved until that matter is resolved/adjudicated, or is deleted in accordance with applicable laws and retention schedules, whichever period of time is greater.

The following retention schedule should serve as a guide; however, the BWC Program Administrator may extend the retention schedule of a recording based on the significance of the case as directed by the Chief of Police or designee.

- Homicides – permanent retention and all videos shall be copied to a backup media such as DVD's memory sticks, etc. and logged into evidence in the property room.
- Officer Involved Shootings - permanent retention and all videos shall be copied to a backup media such as DVD's memory sticks, etc. and logged into evidence in the property room.
- Cases involving potential civil liability to the City – three (3) year retention.
- Felony contacts – two (2) year retention.
- All incidents where use of force is applied - two (2) year retention.
- Misdemeanor contacts (including traffic misdemeanors) - two (2) year retention.
- Arrests - two (2) year retention.
- Citations - two (2) year retention.
- Field Interviews – sixty (60) day retention.
- Uncategorized (no action required), routine incidents with no apparent investigative value – sixty (60) day retention.
- Personnel Complaints / Internal Administrative Investigations – In accordance with the guidelines set forth in Rules and Regulations 5.13

N. Supervisor Responsibilities

1. Supervisors shall ensure that officers equipped with BWCs use them in accordance with Department policy and procedures.
2. Supervisors may assist the Program Administrator with routine audits. When assisting the Program Administrator with routine audits, those audits will be conducted by comparing the BWC activation log to the employee's daily activity log to ensure an officer is activating his/her BWC equipment in compliance with this policy. If necessary, a supervisor may review the BWC recording to ensure the compliance with this policy.

These audits can be done on a random basis or a systematic basis by the officer's immediate supervisor or the program administrator. At least two (2) incidents for each employee will be audited during each calendar quarter. If the supervisor identifies a discrepancy, they will follow-up with

the officer to determine the reason the videos submitted did not match up with the officer's number of contacts. If the supervisor is satisfied with the reason then no further action is required. If the supervisor feels a violation of this procedure occurred, appropriate action will be taken. Discipline resulting from any audit will be based solely upon the findings of noncompliance with the policy requirements for activation, which are revealed by the audit process.

If during the inspection, the supervisor determines that the officer's BWC is not functioning properly, the BWC will be immediately taken out of service for repair and/or replacement.

3. Supervisors shall ensure that videos related to critical incidents are uploaded to Evidence.com.
4. In the absence of a Watch Commander, Supervisors have the ability to immediately resolve citizen complaints by reviewing video captured by a BWC(s). In those circumstances where a complaint is resolved with no further action needed, supervisors shall add appropriate notes to the subject video file in Evidence.com. Supervisors shall ensure that the incident number regarding the complaint is cross-referenced in each Evidence.com video file that relates to the complaint.

O. Discovery of Misconduct

Employees reviewing event recordings should remain focused on the incident or incidents in question and review only those recordings relevant to their investigative scope. If improper conduct is discovered during any review of digital evidence, the person who discovered the conduct in question shall notify a supervisor. Nothing in this procedure prohibits addressing policy violations.

P. Copying and Releasing Digital Evidence

Digital evidence captured by the BWC shall be designated by the Department as investigative records and are not subject to routine release through the requests via the California Public Records Requests Act (CPRA), the Freedom of Information Act (FOIA), or other non-court ordered requests for audio or video records.

Members shall not copy or release digital evidence without the expressed permission of the Program Administrator. Unauthorized copying or releasing of digital evidence may result in disciplinary action.

Pursuant to lawful and established processes, court personnel who are otherwise authorized to review evidence in a related case shall have authority

to review a recording related to that case.

The Chief of Police shall have final Departmental authority in determining the release of copies of recordings when not otherwise required by court order, statutory authority or other lawful authority. All copies of recordings shall be reviewed and redacted accordingly by the Department's Custodian of Records prior to public release.

Q. Request for Deletion of Accidental Recording

In the event of an accidental activation of the BWC, where the resulting video is of no investigative value or evidentiary value, the recording officer may request that the BWC video file be deleted by submitting an email request with sufficient information to locate the data file to their Division Commander or designee. The Division Commander or designee will review the request and forward the request for deletion to the Program Administrator for appropriate action.

R. Use of Digital Evidence for Training Purposes

Officers and supervisors may find it useful, and are encouraged to review recordings of incidents in which they were involved when beneficial for the purpose of conducting a tactical debrief.

The review and use of such recordings for training purposes should be limited to incidents that have been previously adjudicated or depict an incident where no enforcement action was taken. Such training use shall not be disparaging or demeaning to members of the Department or the subjects of the recording.

If the recording is of a useful nature to the Department as a whole, the officer or supervisor should contact the Program Administrator and the Training Sergeant, who will review the digital evidence and determine the value of the incident for training.

S. BWC Program Administrator Responsibilities

1. Operation and user administration of the system to include deploying, maintaining and supporting the functionality of the BWCs, peripheral devices/cables, video transfer devices (docking stations,) work station software, system settings, and other equipment related to the BWC program.
2. Maintain a master inventory of the all associated BWC equipment, conduct an annual inventory and arrange for the warranty and non-warranty repair of such equipment.

3. The BWC Program Administrator will work with IT to maintain system security, network connectivity, server availability and storage availability.
4. The BWC Program Administrator will be available to assist with training personnel in the use of the BWC equipment, addressing requests by BWC users for on-site support, and is responsible for conducting random system evaluations.
5. The BWC Program Administrator is responsible for annual policy and procedure reviews and evaluations, making recommendations for changes as necessary.
6. The BWC Program Administrator is responsible for conducting periodic and random system audits of user accounts, as well as the impounded digital evidence for video and audio quality control.
7. The use of BWCs will generate a tremendous amount of digital video evidence. The BWC Program Administrator, through Axon Enterprises, Inc, will ensure the security and integrity of Evidence.com in making sure that all files are up to evidentiary standards.
8. The BWC Program Administrator will exercise control of access to Evidence.com, manage the production of lists of recordings viewed for audit purposes, provide support in the retrieval of video evidence, handle special requests to access videos not normally accessible by employees and any other request related to legitimate departmental use.
9. The BWC Program Administrator will assist the Custodian of Police records in producing recordings to requests from the District Attorney's Office and Open Records request. They will ensure that BWC files are reviewed and released in accordance with federal, state and local statutes and City of La Mesa/La Mesa Police Department retention policies.